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Supreme Court, U.S.
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No. (1)

In The
SUPREME COURT OF THE UNITED STATES

LOUTO J. BRAQUET, JR.,
Defendant-Appellant-Petitioner,

v.

UNITED STATES OF AMERICA,
Plaintiff-Appellee-Respondent.

(from United States of America v. Braquet, et al.)

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

ORIGINAL PETITION FOR A WRIT OF CERTIORARI

WITH APPENDIX A

LOUTO J. BRAQUET, JR.
C/O 11630 SAGECANYON DRIVE
HOUSTON, TX 77089

Questions Presented

Consumer Protection

1. May the appellate court keep the fee ***and*** maintain the dismissal for non-payment?

No personal jurisdiction

2. Did USOA ever give proper Notice?

    a. Is the irs an "interested party"?
    b. Doesn't a plaintiff have to serve proper Notice within 120 days?

No subject matter jurisdiction

3. Where's any evidence of any "injury in fact"?

4. Doesn't a complaint for this type case have to be sworn?

Hideous violations of Due Process

5. Where was Braquet given a meaningful opportunity to be heard?

6. Do irrebuttable presumptions still violate Due Process?

7. Does denial of discovery still constitute denial of access?

Capacity

8. How is the "14th Amendment" satisfied, here?

No Evidence

9. Where's proof that this suit was even authorized?

10. Where's any evidence supporting any part of the judgment?

11. Where's the verified assessment?

Void Judgment

12. Isn't this void judgment properly vacated?

13. Isn't this case properly dismissed?

Parties

Stated Plaintiff (Appellee, Respondent)

UNITED STATES OF AMERICA

Hence, the Solicitor General's Office

The two parties Defendant

LOUTO J. BRAQUET, JR. (Appellant, Petitioner)

COUNTRYWIDE HOME LOANS OF TEXAS, INC.
(silent to this very day)

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Petition for a Writ of Certiorari

Braquet petitions for a writ of certiorari to the federal appellate court as follows:

Citations to decisions below

For the *appeal* (No. 08-20082), none.

Jurisdiction

(i) Date Order Was Entered

- Aggressively precipitous dismissal for non-payment (during pendency of No. 07-1106): 7 March 2008 [+90: 5 Jun]
- Appellate court received the fee as of 3 April (with motion to reconsider) and negotiated that fee as of 10 April.
- Order denying reinstatement two weeks after negotiation of fee: 24 Apr [+90: 23 Jul].

(ii) Extension Braquet's motion to reconsider was (A) received as of 3 Apr, (B) construed as motion to reinstate, and (C) denied as of 24 April 2008.

(iii) Rule 12.5 N/A

(iv) Statutes, Jurisdiction
28 U.S.C. §§ 1254(1), 2101(c).

(v) Regarding statutory challenge
N/A

Non-Argument Calendar Preferred

Oral argument is not expected to aid in the resolution of these issues.

Statement of the Case

Trial Court Jurisdiction

USOA's unverified allegations.
28 U.S.C. §§ 1331, 1340, 1345; 26 U.S.C. § 7402.

Braquet's verified response(s).
To this effect:
The Sarah; *356 Bales of Cotton*; *Romero*.
Burger King, 471 U.S. at 486.
Colorado River; 28 U.S.C. § 1746, § 3002(15)(A).
And, there is no evidence satisfying § 7401.

USOA's unverified reply.
18 U.S.C. § 7 (2000) (via 26 U.S.C. § 7201 (*payment*)).

Consumer Protection—the appellate fee issue

Given the New Orleans courts' silence in the mandamus proceeding, which became No. 07-1106, Braquet filed his Notice of Appeal, as of 4 February, specifically naming the DC Circuit. He waited to hear from *them* regarding the timing of the payment of the fee. Being ***very*** precipitous, the New Orleans court dismissed the appeal for non-payment as of 7 March. The appellate venue controversy was addressed 24 March, via No. 07-950 (mand. denied), and No. 07-1106 was decided 31 March.

Braquet mailed his motion to reconsider as of 1 April, and he included the appellate fee. [1] The New Orleans court has kept the fee but denied the motion to reinstate.

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[1] Money Gram, R-10132816030-7 ($455), dated 1 Apr 2008, negotiated 10 April 2008.

Trial court has authorized sale of home

Again, without allowing Braquet any meaningful opportunity to object to DOJ's proposed order, the trial court has authorized, as of 14 April, the sale of Braquet's home as early as 3 June.

In addition to the obvious objections, another objection is to the viability of Countrywide's interest in the matter. Unless they can prove up the original note, they have no basis for any proceeds.

No personal jurisdiction

Summons was delivered by a party.

DOJ filed the suit on 11 September 2007. DOJ had an irs agent deliver those papers to Braquet. Among Braquet's prompt objections is his objection to the insufficiency of service. After the court entered its void judgment, DOJ then requested that the trial court allow the irs to sell Braquet's home. [2] By DOJ's own hand, the irs is made to appear to be a real party in interest, meaning it never qualified to serve anything relevant to this case on anyone at any time.

No service within 120 days.

The trial court originally set 9 January 2008 as the date of sale. That happens also to be the last day for service. *See* Rule 4(m) (120 days). That date came and went without any competent service of anything.

No service on equitable interest owners.

Land ownership in this state isn't as clear as some would have us think. Just ask the Kelo family! Braquet may or may not have standing to raise this objection, but he fully expects he's duty bound to raise it. It's manifestly obvious that DOJ made

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[2] Also note item 2 in the 14 April order allowing the sale.

absolutely no effort to serve any of the equitable interest holders in the property of focus. Where those equitable interest holders are known via "Big Brother's" public records, doesn't USOA have to serve them, too, given that the case sounds in equity?

No subject matter jurisdiction

No signature authority for USOA.

For there to be subject matter jurisdiction, there first must be a complaint. So, where is it? Where is any evidence establishing DOJ's signature authority for USOA? Where there is no authorized signature, there is no document. Rule 11.

No real party in interest ever showed up.

Where is there any evidence that USOA is a real party in interest? Rule 17. Where is any evidence as to what/who is/are a/the real party(ies) in interest? There certainly is none in the complaint, or anywhere else in the Record, for that matter.

A new *eo nomine* party?

Rule 17(a) seems superabundantly clear. So, why is *this* suit not even filed by the *eo nomine* party?

No injury in fact.

The complaint suffers fatally from a spectacular absence of even stating a case.

HOW IS BRAQUET LIABLE, HERE, AT ALL?

(Notices of) Liens are commercial instruments. So, where's the commercial nexus? USOA fails even to allege how Braquet is liable in the necessary role, capacity, office. Rules 9(a), 17(a); BOGERT § 50 at 102, § 871 at 156 and nn.2, 3; RESTATEMENT (SECOND) TRUSTS § 2 cmt. h (1959); *Mitchell II*, 463 U.S. at 225 (citing RESTATEMENT (2D) TRUSTS).

HOW IS BRAQUET LIABLE TO USOA?

USOA fails even to allege how it has the necessary role, capacity, office even to assert a claim. *See* SCOTT, ABRIDGMENT OF THE LAW OF TRUSTS, §§ 66, 74, 112; TEX. PROP. CODE § 112.004.

If USOA is standing in for a named beneficiary, where's the unanimous consent agreement, and/or where's the subrogation agreement?

No verified complaint.

Rule 9(h). *Cf.* Rules B and C.

Rule B isn't as direct as Rule C. Thus, are *agency* in personam complaints verified but *judicial* in personam complaints not? That's conceivable, but it seems a bit inconsistent. Or, is this not actually a forfeiture type proceeding? But, how can that be, in light of DOJ's bold infusion into this case of ***criminal*** "charges" against Braquet?

Hideous violations of Due Process

No Notice or opportunity to be heard!

This case went from unverified, unauthorized, unsigned complaint, by a party with no standing and no claim, to final judgment. Just like that. As already detailed, there was no Notice. To complete the travesty, there was no hearing of any type, kind, or nature. There was no summary judgment process, and there was definitely no trial.

This was a default judgment without any default. Why, if there is to be no judicially supervised debate, is a complaint even filed?

Directly after the "settlement conference", 3 December, which produced no settlement, DOJ submitted a proposed final order electronically. DOJ mailed a copy to Braquet. The trial court signed the

"final judgment" on 5 December, which didn't even allow Braquet a chance to *receive* DOJ's proposed order, much less to file his objections to it.

Irrebuttable presumptions still violate Due Process!

USOA not only never had to *prove up* a claim, but also it never even had to *allege* a claim! USOA's burden was absolutely and completely relieved.

Presume that, somehow, an unverified, unauthorized, unsigned complaint that fails utterly even to allege a claim suffices these days to trigger a federal court's subject matter jurisdiction to enter a final judgment. How does a defendant even ***begin*** to satisfy his burden of proof for affirmative defenses, e.g., Statute of Frauds, The Patriot Act, without a trial, without summary judgment, and without even a hearing? Thus, from this angle as well, USOA's burden was relieved, via irrebuttable presumption.

There is no writing signed by Braquet that satisfies the Statute of Frauds for any element of USOA's purported claim. If such a writing exists, USOA never offered it into evidence.

No Evidence

Before § 7402 is § 7401.

DOJ alleges that the suit is authorized. Braquet says, "Prove it!"

Before judgment there is evidence.

DOJ says that USOA *has* a claim. Braquet says, "Prove it!" The plaintiff is right in his cause, till the defendant comes on to examine.

And, before judgment in a § 7201 (*payment*) case, there is a verified assessment!

Braquet filed about 10 different motions to

dismiss. In its consolidated response, DOJ charged Braquet with "evading" "payment". Thus, DOJ instantly transformed a § 7401 commercial collections matter into a § 7201 quasi-criminal collections matter. By so boldly charging "evasion" of "payment", DOJ instantly triggered the need to prove up, in addition to everything else, a verified assessment. That doesn't exist, either!

Capacity

Braquet is fully satisfied that both active parties have adequately waived their objections to the debts of the United States. Countrywide, which has not participated to this day, has done so by its silence. However, the trial court's orders don't adequately reflect that fact.

Void Judgments

Void judgments, generally.

If the irs *is* a party, or is estopped from denying that role, then there is no personal jurisdiction, for there is no Notice, and the time period has expired.

Moreover, there is no subject matter jurisdiction, for there is no standing, no complaint, no plaintiff, no claim, and no real party in interest, in addition to the hideous violations of Due Process.

Further, the Record includes no evidence supporting the judgment.

Dismissal.

In most cases, the real parties in interest would be allowed to replead. A new trial would permit DOJ to cure some of the currently fatal problems. Dismissal would follow from a refusal to do so.

However, some of these fatal problems cannot be

cured, including the lack of signature authority, Rule 4(m) (120 days), the various capacity issues, and the affirmative defenses. Moreover, plaintiff has had ample Notice of the need to replead, the need to substitute in the real parties in interest, and the need to produce certain critical evidence, and has very clearly refused. In fact, instead of repleading and providing evidence, DOJ retaliated, "charging" Braquet ***criminally***. So, dismissal is hardly too harsh.

Argument

Consumer Protection

1. May the appellate court keep the fee *and* maintain the dismissal for non-payment?

Estoppel.

Brant, 93 U.S. at 335-36 (equitable estoppel).

The appellate court accepted the fee, but the appeal is still dismissed for lack of fee. The fee can't be both "accepted" and "non-existent". *Cf. Illinois Surety Co.* (change of position and estoppel).

Denial of access.

Boddie. [3]

No personal jurisdiction

2. Did USOA ever give proper Notice?

[I]t has been settled, that a judgment depending upon proceedings in personam can have no force

[3] The benefit of the net efficiency is not overlooked.

> as to one on whom there has been no service of process, actual or constructive; who has had no day in court, and no notice of any proceeding against him. That with respect to such a person, such a judgment is absolutely void ....

Harris, 55 U.S. at 339. *See also Milliken* (the Wyoming judgment was valid because service was valid; hence, the Wyoming court *did* have personal jurisdiction); *Peralta* (even "meritorious defense" issue is irrelevant to question of Notice). *See also Lloyd*, 5 U.S. at 366 ("A citation not served is as no citation."); *Hamdi*; *International Shoe*; *Mullane*; *Armstrong*, 380 U.S. at 552; *Sniadach*; *Boddie*; *Fuentes v. Shevin*; *N. Ga. Finishing*; and *Jones.*

a. Is the irs an "interested party"?

Rule 4(c)(2).

> (2) Service may be effected by any person who is not a party ....

Rule 4(c)(2).

Systemic confusion.

Since USOA isn't even the proper *eo nomine* party, the actual real parties in interest remain unknown. However, here's the first train wreck. If the irs is not an "interested party" in *federal* court, its comm'r is not an "interested party" in *Tax* Court. Thus, where the comm'r purports to be a real party in interest for purposes of *Tax* Court cases, how is the irs, via its agents, anything but a real party in interest in *federal* court cases?

Of course, where comm'r is ***not*** a real party in interest in *Tax* Court, it follows that irs agents ***may*** serve *federal* court "tax case" paperwork.

Estoppel via actions.

Here's the second train wreck. Where DOJ wants, *post*-judgment, to have the trial court authorize the ***irs*** to sell the home, it follows that the ***irs*** is just as interested from the outset. Where the irs *act* like a party, how do they avoid the Rule 4(c)(2) restriction?

b. Doesn't a plaintiff have to serve proper Notice within 120 days?

Rule 4(m).

There was only the one effort at delivery of summons and complaint. Rule 4(m) requires that service be completed within 120 days after the suit is filed. Thus, the deadline for service of the suit filed 11 September was 9 January.

Notice to all interested parties.

How does ***any*** suit in equity proceed without proper notice to all interested/affected parties? *Cf. Martin* (non-parties to an agreement (consent decree) are not bound by it); Rules 19(a), (b).

Cf. Pacific Live Stock Co., 241 U.S. at 449 (equitable determination of water rights required presence of all interested parties); *Colorado River* (all parties to water rights management program were properly before the *state* court).

How can "Big Brother" gather and publicize all these private details but then not be held responsible for having that information? Even more challenging still, how *does* one property serve, simultaneously, as two separate *res*'s? Collateral? Ok. But *res*'s??!

No subject matter jurisdiction

3. Where's any evidence of any "injury in fact"?

On the claim, generally.

Lujan.

Rules 9(a) and 17(b). § 3002(15)(A); § 321(d). *Cf. Arnold* (applying *Booker*, at trial, a year and a half **before** *Booker* existed, and *Blakely*, a year **before** it existed; non-agreement vitiates "evidence" used for "sentencing"); *Pollock I*, 157 U.S. at 553-54 (1st ¶ of opinion); BOGERT § 50 at 102 ("The burden of proof is on the party who asserts the existence of a trust."), § 871 at 156 and nn.2, 3 (where beneficiary fails to prove damages, there is no recovery); RESTATEMENT (SECOND) TRUSTS § 2 cmt. h (1959); *Mitchell II*, 463 U.S. at 225 (citing RESTATEMENT (2D) TRUSTS); *See* SCOTT, ABRIDGMENT OF THE LAW OF TRUSTS, §§ 66, 74, 112; TEX. PROP. CODE § 112.004.

Where's evidence of signature authority?

Rule 11. What/who is USOA, and how does DOJ have authority to sign for it, unless it's a foreign commercial entity? Since it's not a registered foreign or domestic commercial entity in "Texas", where is its capacity to show up in court as a plaintiff at all, even *with* signature authority?

Where's the real party in interest?

Rules 9(a) and 17(b). § 3002(15)(A); § 321(d). *Cf. Arnold* (non-agreement vitiates "evidence" used for "sentencing"); *Pollock I*, 157 U.S. at 553-54 (1st ¶ of opinion); BOGERT § 50 at 102 ("The burden of proof is on the party who asserts the existence of a trust."), § 871 at 156 and nn.2, 3 (where beneficiary fails to

prove damages, there is no recovery); RESTATEMENT (SECOND) TRUSTS § 2 cmt. h (1959); *Mitchell II*, 463 U.S. at 225 (citing RESTATEMENT (2D) TRUSTS); *See* SCOTT, ABRIDGMENT OF THE LAW OF TRUSTS, §§ 66, 74, 112; TEX. PROP. CODE § 112.004.

Where's even the *eo nomine* party?
Rule 17(a).

4. Doesn't a complaint for this type case have to be sworn?

Rule B suggests what Rule C overtly requires. Per Rule B, even prior to DOJ's injecting the *England* issue in this case, DOJ had to submit a verified complaint. Per Rule C, once DOJ converted this into a § 7201 (*payment*) collections case, the need for a verified complaint was set in concrete.

Hideous violations of Due Process

5. Where was Braquet given a meaningful opportunity to be heard?

"Sentence first—then verdict! [*then* trial!]"
No trial; no summary judgment; not even a hearing, of any type, kind, or nature. *Harris*, 55 U.S. at 339 (voidness); *Boddie* (denial of access).

Milliken; *Peralta*; *Hamdi*; *International Shoe*; *Armstrong*, 380 U.S. at 552; *Sniadach*; *Boddie* (denial of access); *Fuentes v. Shevin*; *N. Ga. Finishing*; and *Jones*.

6. Do irrebuttable presumptions still violate Due Process?

No opportunity to be heard.

Where there is no Notice and/or no opportunity to be heard, all evidentiary burdens are satisfied by nothing except irrebuttable presumptions. This is a rather ancient type of Due Process violation. *Elkins*; *Salfi* (in particular part III, which distinguishes *Salfi*); *LaFleur*; *Vlandis*; *Stanley*.

USOA never had to satisfy its burden.

NOT AT THE THRESHOLD.

See Question 3.

NOT FOR SUMMARY JUDGMENT.

Beard (citing *Anderson*, 477 U.S. at 255); *Scott* (citing *Diebold*, 369 U. S. at 655).

AND NOT FOR TRIAL.

Mullaney (citing *In re Winship*); *Heiner*.

Braquet's defenses presumed away.

Presume a need to prove up affirmative defenses. *Dixon*. Where's the written agreement? TEX. PROP. CODE § 112.004. Where's the "money trail" satisfying the "know your customer" element self-imposed via The Patriot Act?

7. Does denial of discovery still constitute denial of access?

Ins. Corp. v. Compagnie des Bauxites; *Hammond Packing Co.*, 212 U.S. at 350-51; *Roadway Express, Inc.* (citing *National Hockey League* (citing *Societe Internationale*, 357 U.S. at 212-13)).

Capacity

8. How is the "14th Amendment" satisfied, here?

Judicial Notice.

No Evidence

9. Where's proof that this suit was even authorized?

In the face of Braquet's objection(s), USOA/DOJ never even satisfied § 7401.

10. Where's any evidence supporting any part of the judgment?

The only *evidence* of Record is that submitted by Braquet. *O'Connor* (uncontroverted Affidavit accepted as true). Thus, there is no evidence of Record any where near ***supporting*** this "judgment".

11. Where's the verified assessment?

DOJ invades *England!*

Since there are, theoretically, criminal charges that may arise from time to time in "income tax" cases, it's not really a violation of the debt collection practices act for DOJ to haul off and charge someone criminally in the "income tax" setting. However, that ***does*** change the collections case, rather drastically. It transforms the case from a § 7401 case to a § 7201 case. Moreover, since it's not just "evasion" that DOJ so boldly charges, but "evasion" of "***payment***", DOJ

instantly obligates itself under *England* to produce and prove up a verified assessment.

So, where is it?! Where's the verified assessment?

Void Judgments

12. Isn't this void judgment properly vacated?

Void judgments.

Harris, 55 U.S. at 339. *See also Cotton Mills*, 237 U.S. at 196-97. *Cf.* "[A] judgment will never be considered final if the court lacked subject-matter jurisdiction." *Dubai Petroleum Co.*, 12 S.W.3d at 76. A void judgment may be challenged collaterally. *Cf. Schlesinger* (same principles apply in court-martial setting); *Klapprot* (citizenship can't be revoked until activity giving rise to that consequence has been proved).

There's no personal jurisdiction, subject matter jurisdiction, or evidence, and there are significant Due Process problems.

13. Isn't this case properly dismissed?

Dismissal is certainly fitting and appropriate.

DOJ documented no response to Braquet's motions except that of charging him criminally. So, while some of DOJ's problems could be fixed, some of them can't, and hauling off and charging Braquet criminally from his demanding proof of the claim against him renders dismissal more than suitable.

Cf. Eberhart (FED. RS. CRIM. P. 33, 37); *J. H. Munson Co.*; *McNutt*; *Tidal Oil Co.*; *Chase*.

Remedies and Relief Requested

Given the foregoing, Braquet requests

1. That this Court grant this petition, issue the writ of certiorari, and take jurisdiction of this matter;
2. That this Court not only vacate the appellate court's very precipitous dismissal but also overrule *Stearman*, thereby relieving the *trial* courts who know better from having to go through this any more;
3. That this Court vacate the trial court's "final judgment" as void, vacate the "order for sale of realty" as void, and instruct the trial court to consider dismissal;
4. The opportunity to brief any additional issues the Court may identify;
5. The non-argument calendar;
6. Costs; and
7. Any and all other relief at law, in equity, or sui generis to which he may show himself justly entitled.

Respectfully submitted,

/s/ Louto J. Braquet, Jr.
Louto J. Braquet, Jr.
I reserve all my rights

c/o 11630 Sagecanyon Drive
Houston, TX 77089

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Appendix A

Rule 14.1(i)(i)—Appellate Opinion(s)

2008 Mar 7—Fifth Circuit's dismissal for nonpayment of the fee

United States Court of Appeals
Fifth Circuit
F I L E D
March 7, 2008
Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 08-20082

UNITED STATES OF AMERICA
Plaintiff – Appellee

v.

LOUTO J BRAQUET JR.
Defendant – Appellant

- -

Appeal from the United States District Court for the Southern District of Texas, Houston

- -

CLERK'S OFFICE:

Under 5TH CIR. R. 42.3, the appeal is dismissed as of March 7, 2008, for want of prosecution. The appellant failed to timely pay the docketing fee.

CHARLES R. FULBRUGE III
Clerk of the United States Court
of Appeals for the Fifth Circuit

By: */s/ L Miles*
Linda Miles, Deputy Clerk

ENTERED AT THE DIRECTION OF THE COURT

DIS-2

2008 Mar 7—Fifth Circuit's Clerk's cover letter

United States Court of Appeals
FIFTH CIRCUIT
OFFICE OF THE CLERK
CHARLES R. FULBRUGE III
CLERK
TEL. 504-310-7700
600 S. MAESTRI PLACE
NEW ORLEANS, LA 70130

March 7, 2008

Mr Michael N Milby, Clerk
Southern District of Texas, Houston
United States District Court
Room 1217
515 Rusk Street
Houston, TX 77002

No. 08-20082 USA v. Braquet
USDC No. 4:07-CV-2926

Enclosed is a certified copy of the judgment issued as the mandate.

Sincerely,
CHARLES R. FULBRUGE III, Clerk

By: */s/ L Miles*
Linda Miles, Deputy Clerk
504-310-7709

cc: w/encl:
Mr Louto J Braquet Jr
Mr Robert J Branman

MDT- 1

Rule 14.1(i)(ii)—Additional Orders

2007 Dec 5—Trial Court, Final Judgment

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

United States of America, Plaintiff,	§	
versus	§	Civil Action H-07-2926
Louto J. Braquet, Jr., *et al.*, Defendants.	§	

Judgment of Title and Possession

1. Louto J. Braquet, Jr., is indebted to the government in federal income taxes, penalties, and interest of $98,689.56.

2. The government's federal-tax lien is foreclosed, and it has title and possession of real property at 11630 Sagecanyon Drive, Houston, Texas. The Sagecanyon property is Lot Twelve, Block Sixteen of Sageglen, Section Two, a Subdivision in Harris County, Texas, according to the Map recorded in Volume 246, Page 34, of the Map Records of Harris County, Texas.

3. Braquet must vacate the Sagecanyon property by January 9, 2008.

Signed on December 5, 2007, at Houston, Texas.

/s/ Lynn N. Hughes
Lynn N. Hughes
United States District Judge

2007 Sep 27 (?)—Trial Court, unsigned, undated order setting Rule 16 settlement conference

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

United States of America	§	
	§	
versus	§	Civil Action
	§	4:07-cv-02926
Luoto [sic] J Braquet,	§	
et al.	§	

Order for Conference

1. The plaintiff must accomplish service within 60 days.

2. Counsel must appear for an initial pretrial conference on:

Judge Lynn N. Hughes
December 3, 2007, at 11:00 AM
515 Rusk Avenue, Room 11122
Houston, Texas.

3. Initial disclosure may not be delayed. Documents and other disclosures must be exchanged, reviewed, and discussed with opposing counsel well before the conference.

4. No interrogatories, requests for admission, or depositions may be done without court approval.

5. A joint discovery plan is not required. Counsel must (a) master the facts, (b) ascertain the discovery needed, (c) discuss it with each other, and (d) be

prepared to discuss discovery in a conference so that the court may fashion a brief, effective management plan.

6. The court will schedule additional preparation and may not rule on motions pending or made at the conference.

7. To insure full notice, each party who receives this notice must confirm that every party knows of the setting.

8. Failure to comply with this order may result in sanctions, including dismissal, and prolonged tirades by the court.

Lynn N. Hughes [italics in original]
United States District Judge

[⊥ 2]

Judge Lynn N. Hughes

Courtroom 11-C, Eleventh Floor
United States Court House
515 Rusk Avenue, Room 11122
Houston, Texas 77002-2605
(713) 250-5900

Dawna Kelly, Case Manager
United States District Clerk
Post Office Box 61010
Houston, Texas 77208-1010
(713) 250-5516
Dawna_Kelly@txs.uscourts.gov

Procedures. Suggestions for practice before Judge Hughes may be found at www.txs.uscourts.gov Please read them.

Contact. Make case-related telephone inquiries to the case manager only. Counsel should alert the case manager to matters requiring prompt attention.

Information. Get information about filings, orders, or docket entries from the computer or from the clerk's office at (713) 250-5500 or (800) 745-4459.

Letters. Do not write letters. Put your message in a document with the case style.

Emergencies. Apply for immediate relief through the Intake Section of the Clerk's Office, 515 Rusk Avenue, Houston; (713) 250-5150.

Counsel should send a copy of emergency motions directly to the case manager so that they quickly reach the court's attention. In case of an emergency when the case manager cannot be reached, please call the judge's secretary, Kathy Grant, at (713) 250-5900.

Continuances. Joint motions for continuance do not bind the court. The court will respect counsel's vacations.

Discovery Problems. The court will hear oral motions that affect discovery or scheduling as soon as both counsel can appear in person or by telephone.

2007 Dec 13—Trial Court, Denial of motions to vacate and for stay

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

United States of America,	§	
Plaintiff,	§	
versus	§	Civil Action H-07-2926
Louto J. Braquet, Jr.,	§	
et al.,	§	
Defendants.	§	

Order Denying Modification of Judgment

1. Louto Braquet's motion for stay of execution of judgment is denied. (20)

2. Louto Braquet's motion to vacate the judgment of December 5, 2007, is denied. (22)

Signed on December 13, 2007, at Houston, Texas.

/s/ Lynn N. Hughes
Lynn N. Hughes
United States District Judge

2008 Jan 7—Trial Court, Denial of motions for stay (construed from responses)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

United States of America, Plaintiff,	§	
versus	§	Civil Action H-07-2926
Louto J. Braquet, Jr., *et al.*,	§	
Defendants.	§	

Order Denying Modification of Judgment

Louto Braquet's motions for stay of execution of judgment are denied. (28, 29)

Signed on January 7, 2008, at Houston, Texas.

/s/ Lynn N. Hughes
Lynn N. Hughes
United States District Judge

2008 Jan 8—Trial Court, Denial of motion for new trial

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

United States of America, Plaintiff,	§	
versus	§	Civil Action H-07-2926
Louto J. Braquet, Jr., *et al.*,	§	
Defendants.	§	

Order Denying New Trial

Louto Braquet's motion for new trial is denied. (30)

Signed on January 8, 2008, at Houston, Texas.

/s/ Lynn N. Hughes
Lynn N. Hughes
United States District Judge

2008 Jan 17—Trial Court, Denial of motion to dismiss, Rule 4(m)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

United States of America, Plaintiff,	§	
versus	§	Civil Action H-07-2926
Louto J. Braquet, Jr., *et al.*,	§	
Defendants.	§	

Order Denying Dismissal

Louto Braquet's motion to dismiss for untimely service of process is denied. (34)

Signed on January 17, 2008, at Houston, Texas.

/s/ Lynn N. Hughes
Lynn N. Hughes
United States District Judge

2008 Apr 14—Trial Court, Order for Sale of Realty

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

United States of America, Plaintiff,	§	
versus	§	Civil Action H-07-2926
Louto J. Braquet, Jr., *et al.*, Defendants.	§	

Order for Sale of Realty

1. The court orders the sale of the land and improvements known as 11630 Sagecanyon Drive, Houston, Texas 77089, being:

   Lot Twelve in Block Sixteen of Sageglen, Section Two, a subdivision in Harris County, Texas, according to the map in Volume 246, Page 34, of the Map Records of Harris County, Texas.

2. The Internal Revenue Service of the United States Treasury will sell the property free of all claims and without redemptive rights at public auction on the first Tuesday of a month at 11:00 a.m., at the area designated in the Harris County Family Law Center by Commissioner's Court Order dated March 18, 2003, Clerk's File W516820.

3. The Service must publish the notice in the margin in the Pasadena *Citizen* and the Houston *Daily Court Review* once each week for the third and fourth weeks before the sale. It must also post the notice on the court house door twenty-one days before the sale.

4. The Service must deliver a copy of the notice by certified mail to:

   Louto Braquet, Jr.
   11630 Sagecanyon Drive
   Houston, Texas 77089

   R. Dwayne Danner
   Countrywide Home Loans of Texas
   7105 Corporate Drive, PTX-B-455
   Plano, Texas 75024

282406.1

[⊥ 2]

5. At the time of the sale, the highest bidder must deposit 10% of the bid in cash or cashier's check, with the Service and pay the balance of the bid to the Service, cash or cashier's check, within seven business days of his or her bid being accepted.

6. If the bid is not paid, the deposit will be applied to the costs of sale and the respondent's tax liability, and the property will be auctioned again.

7. Objections to the sale must be filed with the court within ten days of the auction.

8. After objections are heard, the Service will issue the buyer a deed – not a quit claim – conveying the respondent's full title to the buyer and warranting against claims under the Service.

9. The sale proceeds will be distributed:

   A. First, to the Service for the cost of the sale; then
   B. Harris County for any ad valorem taxes or court costs; then
   C. Countrywide Home Loans of Texas for its mortgage; then
   D. The Service's federal tax lien against Louto J. Braquet, Jr.,; and
   E. The balance to Louto J. Braquet, Jr.

Signed April *14*, 2008, at Houston, Texas.

/s/ Lynn N. Hughes
Lynn N. Hughes
United States District Judge

282406.1

[⊥ 3]

Auction of 11630 Sagecanyon

The United States Internal Revenue Service will sell 11630 Sagecanyon Drive, Houston 77089, free of all claims at public auction on _____, 2008, at 11:00 a.m., Harris County Court House.

The sale will be to the highest bidder, and the highest bidder must deposit with the Service at the time of the sale 10% of the bid in cash or cashier's check and must pay the balance within seven business days of his bid's being accepted.

The property may be inspected by calling _____ at (_____) _____ - _____.

Internal Revenue Service
By: _____

282406.1

Rule 14.1(i)(iii)—Rehearing, or other extension

2008 Apr 24—Order denying reinstatement

U.S. COURT OF APPEALS
FILED
APR 24 2008
CHARLES R. FULBRUGE III
CLERK

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 08-20082

UNITED STATES OF AMERICA
Plaintiff – Appellee
v.
LOUTO J BRAQUET, JR.
Defendant – Appellant

- -

Appeal from the United States District Court for the Southern District of Texas, Houston

- -

O R D E R :

IT IS ORDERED that the appellant's motion to reinstate is *denied*.

/s/ Patrick E. Higginbotham
PATRICK E. HIGGINBOTHAM
UNITED STATES CIRCUIT JUDGE

MOT–21

2008 Apr 24—Fifth Circuit's Clerk's cover letter

United States Court of Appeals
FIFTH CIRCUIT
OFFICE OF THE CLERK

CHARLES R. FULBRUGE III
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE
NEW ORLEANS, LA 70130

April 24, 2008

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 08-20082 USA v. Braquet
USDC No. 4:07-CV-2926

Enclosed is an order entered in this case.

Sincerely,

CHARLES R. FULBRUGE III, Clerk

By: */s/ Steve(n?) A. Totora*
Steve Totora, Deputy Clerk
504-310-7667

Mr Louto J Braquet Jr
Mr Robert J Branman
Mr Joshua David Smeltzer
Mr Michael N Milby, Clerk

MOT–2

Rule 14.1(i)(iv)—Judgment of different date

None

Rule 14.1(i)(v)—Statutes and Rules

FED. R. CIV. P. 4(c)(2). *See* Question 2.a.

Rule 14.1(i)(vi)—Additional Essential Materials

Reference to the Record will suffice